

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

### for August 6, 2003 PLANNING COMMISSION MEETING

**P.A.S.:** Change of Zone 3412

**PROPOSAL:** To change the zoning on approximately 14 blocks within the Antelope Park Neighborhood from R-4 Residential to R-2 Residential.

**LOCATION:** Generally located between South 27<sup>th</sup> Street and the Rock Island Trail, from South Street to A Street.

**LAND AREA:** 59.24 acres, more or less.

**CONCLUSION:** This neighborhood appears to have reached a point where the mix of residential uses seems appropriate. The current mix is approaching a tipping point, at which additional two-family dwellings would start to overload the carrying capacity of the neighborhood. Approval of this change of zone would preserve the current development pattern and limit the potential for increasing housing density in an area with a fixed amount of infrastructure.

<b><u>RECOMMENDATION:</u></b>	Approval
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### **GENERAL INFORMATION:**

#### **LEGAL DESCRIPTION:**

The following additions and parts of additions:

**Zehrung and Ames Addition**, part of Lot 7, Block 1, Lots 10-18, Block 2, Lots 10-18, Block 3, all of Blocks 4 and 5, part of Lots 4, 5, 10, 11, and 12 and all of Lots 6-9, Block 6, all of Block 7 and the south half of the north-south alley adjacent thereto, the remaining portion of Block 8, and all of Blocks 9-12.

**Farrels Replat** of Lots 15-18, Block 8, Zehrung and Ames Addition

**Arlington Heights Addition**, Lots 1-24, the remaining part of Lots 25-29, Lots 30-48, Block 1, all of Blocks 2 and 3, Lots 6-24, Block 4

**McManigells Subdivision** of a part of Lots 25-29, Block 1, Arlington Heights Addition

**Byers Replat** of Lots 1-5, Block 4, Arlington Heights Addition

**Franklin Park Addition** Lots 1-12

**Douglas Subdivision** Lots 1-14

**Jefferson Park Subdivision** Lots 1 and 2, a part of Outlot A, all of Outlot B, and a part of the abandoned Chicago, Rock Island, and Pacific railroad right-of-way adjacent thereto

**Parkside Place Addition** Block 2, Lots 4 and 5, Block 7, Lots 8-17, Block 8

**EXISTING ZONING:** R-4 Residential



**EXISTING LAND USE:** Single-, Two-, and Three-Family dwellings, Church

**SURROUNDING LAND USE AND ZONING:**

North:	Residential uses	R-4 and R-6 Residential
	Commercial uses	B-3 Commercial
South:	Residential uses	R-2 Residential
	Commercial uses	B-1 Local Business
East:	Antelope Park and Rock Island Trail	P Public
West:	Residential uses	R-2 and R-4 Residential

**HISTORY:** Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling. As a result of the update, the zoning changed to R-4 Residential, which substantially reflects the B Two-Family District.

**HISTORY OF OTHER RESIDENTIAL DOWNZONING**

Apr 2003 Change of Zone #3397 from R-4 Residential to R-2 residential was approved for an existing landmark district within the Near South Neighborhood.

Oct 2002 Change of Zone #3378 from R-5 and R-6 Residential to R-2 Residential was approved within the existing Mount Emerald Neighborhood landmark district.

Feb 2002 Change of Zone #3354 from R-4 Residential to R-2 Residential was approved for the area located immediately adjacent and southeast of this application. The area included approximately 106 dwelling units. The Planning Department recommended denial because the change would cause 35% of the lots to become nonstandard and the R-4 district allows a diversity of housing types.

Jun 1995 Change of Zone #2890 from R-4 Residential to R-2 Residential was approved for a small area located immediately adjacent and west of this application. The area included 23 dwelling units (21 single-family and 2 duplex units). The Planning Department recommended denial because the change would result in 57% of the lots becoming nonstandard

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan shows the area as Urban Residential. (F 25)

**Urban Residential:** Multi-family and single-family residential areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling unit per acre. (F 27)



### **COMP PLAN SPECIFICATIONS THAT SUPPORT THIS CHANGE OF ZONE:**

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (F 17)

The ***Overall Guiding Principles*** for future residential planning include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (F 65)

The ***Guiding Principles for Existing Neighborhoods*** include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (F 68)

Preserve the mix of housing types in older neighborhoods. (F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (F 68)

#### ***Strategies for New & Existing Residential Areas***

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers. (F 72)

#### ***Strategies for Existing Residential Areas***

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses. (F 73)

### **COMP PLAN SPECIFICATIONS THAT DO NOT SUPPORT THIS CHANGE OF ZONE:**

The ***Guiding Principles for the Urban Environment: Overall Form*** include:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. (F 17)

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (F 65)

#### ***Strategies for New Residential Areas***

Structure incentives to encourage more efficient residential and commercial development to make greater utilization of the community's infrastructure. (F 72)

### **COMP PLAN SPECIFICATIONS THAT ARE NEUTRAL TO THIS CHANGE OF ZONE:**

One ***Quality of Life Asset*** from the ***Guiding Principles from the Comprehensive Plan Vision*** states:



The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. (F 15)

The **Guiding Principles for the Urban Environment: Residential Neighborhoods** include:  
Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

Develop and promote building codes and regulations with incentives for the rehabilitation of existing buildings in order to make it easier to restore and reuse older buildings. Encourage reconversion of single family structures to less intensive (single family use) and/or more productive uses. (F 73)

### **AESTHETIC CONSIDERATIONS:**

Many of the homes in the area appear to be of the same vintage, with similar architectural characteristics. The streetscapes appear consistent with older single-family areas; there is a rhythm to the size and shape of houses, there is some, but not a significant amount of parking on the streets, and many homes are still single-family.

### **ANALYSIS:**

1. This is a request to change the zoning for approximately 14 blocks within the Antelope Park Neighborhood from R-4 Residential to R-2 Residential. The Applicant's goal appears to be to limit future two-family dwellings by increasing the minimum lot size for such uses.
2. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.
  - A. **Safety from fire, flood and other dangers.**  
No apparent impact.
  - B. **Promotion of the public health, safety, and general welfare.**  
This proposal appears to fulfill several of the policies and guidelines enumerated in the Comprehensive Plan. However, there are also several Comprehensive Plan policies and strategies that would suggest this downzoning is not appropriate.
  - C. **Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.**  
The housing within this proposed change of zone is primarily single-family, with some two-family and multiple-family units. The majority of the approximately 302 primary structures in the area appear to have been constructed as single-family homes and are still in that use today. It appears as though there are 35 two-family homes, and 2 multiple-family homes. Some of these have been converted from single-family dwellings, while others may have been constructed for their current use.



**D. Conservation of property values.**

It is difficult to determine the affect a change of zoning will have on property values. On one hand, property values could diminish if houses could no longer be converted into duplexes, due to increased lot coverage requirements. On the other hand, this may have the effect of encouraging home ownership, which could stabilize or increase property values.

**E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity of housing choices. At the same time, the Comp Plan identifies Lincoln's commitment to its neighborhoods, as well as an encouragement to preserve existing single-family homes for single-family uses. This area has developed over time as a predominantly single-family neighborhood, but it does have a number of two-family dwellings distributed throughout. This neighborhood demonstrates efficient use of existing infrastructure through its existing pattern of development. There appears to a reasonable mix of single- and two-family uses that is worthy of preserving.

3. There are several differences between R-2 and R-4 zoning requirements. The following table shows the requirements of each district.

	<b>R-2</b>	<b>R-4</b>
Lot area, single family	6,000 sq. ft.	5,000 sq. ft.
Lot area, two family	5,000 sq. ft. per unit	2,500 sq. ft. per unit
Avg. lot width, single family	50 feet	50 feet
Avg. lot width, two family	40 feet per unit	25 feet per unit
Front yard	25 feet	25 feet
Side yard, single family	5 feet	5 feet
Side yard, two family	10 feet (0 feet at common wall)	5 feet (0 feet at common wall)
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth

4. The Permitted Uses in the R-4 and R-2 districts are nearly identical. The only two differences among Conditional Uses between these districts are the requirement that group homes be separated by 1,200 feet in R-4 and by one-half mile in R-2, and that the density of residents within a domestic shelter within the R-4 district is one per 1,000 square feet, while the R-2 district allows 1 per 2,000 square feet. The only difference among Special Uses is that garden centers are allowed in R-2 but not in R-4.



5. The 3 existing multiple-family dwellings are nonconforming uses under either R-4 or R-2 zoning, as they are not permitted uses in either district. There are 4 existing duplexes that are nonconforming under either R-4 or R-2 because there are 4 duplexes located on 2 lots.
6. LMC §27.61.040 provides that a nonconforming use “shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located” or a special permit is obtained. Additionally, §27.61.050 provides that nonconforming uses that are damaged to an extent of more than 60% of their value “shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of Chapter 27.75 [variance], or Section 27.63.280 [special permit].”
7. However, §27.13.080(g) of the R-2 district regulations provides that “multiple family dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61 [nonconforming and nonstandard uses].” This rule allows multiple-family dwellings to be reconstructed, altered, and restored after damage by treating such uses as nonstandard rather than nonconforming.
8. Pursuant to LMC §27.03.460, nonstandard lots are defined as those that fail to meet the minimum lot requirements for the district, such as lot area, lot width, density, setbacks, height, unobstructed open space, or parking.
9. Under the current zoning designation, there are 59 single-family and 6 two-family dwellings that are nonstandard. If the zoning is changed to R-2, there will be 71 single-family and 32 two-family dwellings that are nonstandard. All of these lots are nonstandard based upon lot area only.
10. Pursuant to LMC §27.61.090, nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or may otherwise be made “if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space...”
11. Therefore, any residential use within this area, whether single-, two-, or multiple-family, that is a nonstandard use, may be altered or rebuilt provided it meets setbacks, height, and open space requirements. While this may result in a slightly different building footprint, there is no need under the current zoning ordinance for a variance or special permit if these requirements are met.



12. In the case of a nonstandard use that wants to extend into one of the required yards, a special permit is available. This is different than for a use that is not nonstandard; such a use would have to obtain a variance from the Board of Zoning Appeals in order to occupy a required yard.
13. The total number of nonstandard and nonconforming uses, both before and after this change of zone, are presented below.

Unit type	Current R-4	Proposed R-2	Total units
Single-family	59 nonstd.	71 nonstd.	253
Two-family	6 nonstd./4 nonconf.	32 nonstd./4 nonconf.	35
Multiple-family	1 nonstd./2 nonconf.	1 nonstd./2 nonconf.	2
Other	1 nonstd.	1 nonstd.	6
Public	0 nonstd.	0 nonstd.	2
Vacant	3 nonstd.	3 nonstd.	4
			<u>302</u>

14. This area is adjacent to two existing R-2 Residential districts. The first area includes the southeast corner of this neighborhood, which was changed from R-4 Residential to R-2 Residential in February, 2002. The other is located across 27<sup>th</sup> Street, along Washington Street, and was changed from R-4 Residential to R-2 Residential in June, 1995. This area represents a transition from more dense residential areas located closer to Downtown, and less dense residential areas located further from Downtown.
15. This area appears to be fully built. There appears to be only 2 vacant lots large enough to construct another two-family dwelling under current R-4 zoning, one of which appears to be large enough even under R-2 zoning. Therefore, the primary opportunity for additional two-family dwelling is to convert existing single-family dwellings.
16. An argument can be made that reducing the density in the city effectively increases the need for more units in another location, namely the edge of the city, which increases the burden for all taxpayers by creating the need to fund new infrastructure. By retaining the R-4 Residential zoning district at this location, a greater number of housing units may be supplied through infill development and reuse of existing structures.  
However, the Comp Plan also stresses that “preservation of [single-family] homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership,” and that “the rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers.” (F 65, 72)

When discussing older neighborhoods located near Downtown, the Comp Plan states “Significant intensification could be detrimental to the neighborhoods and be



beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses.” (F 73)

17. The terms “tipping point” and “carrying capacity” as used in the Conclusion are not explicitly defined. These terms are used to identify the concept that there is a point at which a neighborhood will have a certain mix of single-, two-, and even multiple-family dwellings that works well for the existing infrastructure. The occurrence of this point will depend of infrastructure factors, such as water and sewer capacities, traffic capacities, and availability of off-street parking, as well as, character and compatibility with the surrounding neighborhood, and a recognition of the historic development pattern and the expectations of current residents. Each neighborhood not only has its own tipping point, but that point may change as the contributing factors change.
18. The Planning Department recommends the balance between an appropriate mix of single- and two-family residences currently exists within this neighborhood. The existing density of this area is 4.86 units per acre. Additional two-family dwellings would impact the availability of off-street parking, may cause increased congestion on narrow streets, and could disrupt the character of the neighborhood. Certainly, it is possible to design two-family dwellings that respect and address these types of concerns. But the reality is that the City cannot impose regulations on future two-family dwellings that hold them to a higher standard based upon the characteristics of a specific neighborhood.
19. The R-4 district requires all new construction to meet the City of Lincoln Design Standards, Chapter 3.75 Neighborhood Design Standards. These standards are designed to recognize that certain areas of Lincoln “retain much of the traditional physical character of their original lower density development,” even though they may have experienced recent higher density development. These standards do not apply to the R-2 district. However, since there is little opportunity for new construction within the neighborhood, it is unlikely these standards would be applied under current zoning. The loss of the protection of these design standards through a change of zone appears to be negligible.



20. At the time of this report, the Applicant has stated that there are 267 property owners within this area that have been contacted for their opinion. 199 have responded and 68 have not. There were 190 that responded in support, 4 responded in opposition, and 5 were indifferent. This calculates to a 95% rate of support of those that responded, and a 71% rate of support of all property owners.

Prepared by:

Greg Czaplewski  
Planner

**Date:** July 16, 2003

**Applicant:** Antelope Park Neighborhood Association  
1745 Jefferson Avenue  
Lincoln, NE 68502  
438.1745

**Contact:** Gary Hejl, Association President  
1745 Jefferson Avenue  
Lincoln, NE 68502  
438.1745

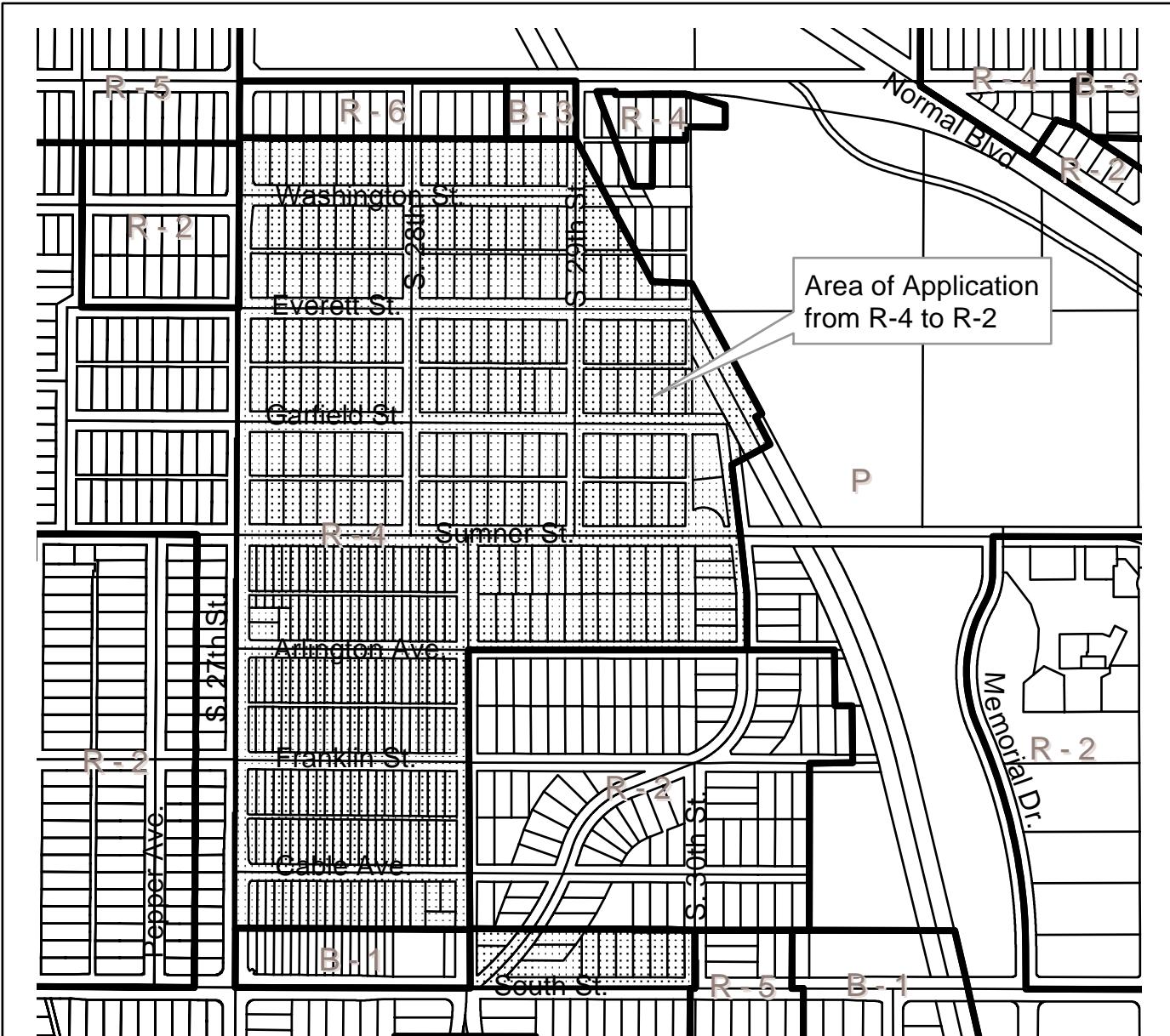




# Change of Zone #3412 S. 28th & Sumner St.





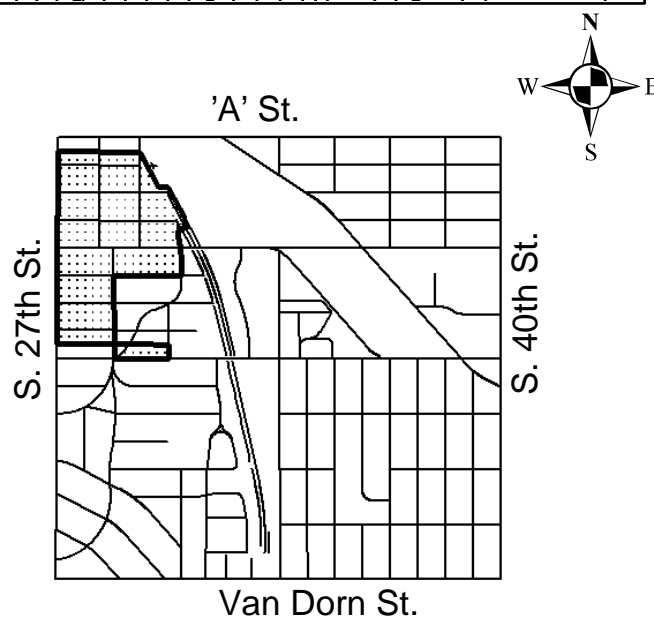
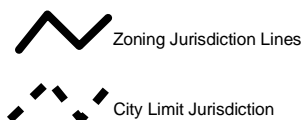


## Change of Zone #3412 S. 28th & Sumner St.

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 31 T10N R7E





## ANTELOPE PARK NEIGHBORHOOD ASSOCIATION

City of Lincoln  
Planning Commission  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

Dear Members;

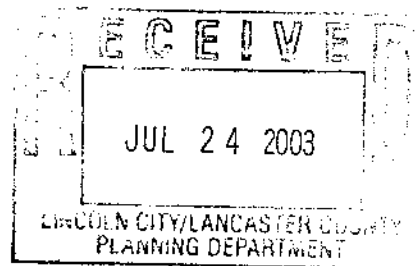
In 2002, our neighbors were granted change of zone to R-2 for nearly a quarter of the neighborhood. At the time of application approval last year, our neighbors stated that in the future we would seek zone modification for the rest of our neighborhood. At the urging of a great number of our residents, the Antelope Park Neighborhood is now applying for change of zone to R-2 for most of our remaining area still zoned R-4.

The historic use of the property in our neighborhood has been for single-family homes. The current property use is still as single-family homes, with a few duplex living units. Our intention is to better preserve and protect the integrity and character of our neighborhood by adopting a residential zone category more consistent with the traditional and current property use. Our neighborhood homes are valued as affordable housing for first-time home buyers and small families, and as a good place to live and invest.

The Antelope Park neighborhood is flanked on the west with R-2 zoning, as well as on the east. In the Near South area, both Mount Emerald and Franklin Heights have been recently re-zoned to R-2. The approval of this application will recognize the common character and purpose of our neighborhoods, and rectify a disparity of zoning inconsistent with current and traditional property usage.

We thank you for your consideration.

Gary Hejl  
Antelope Park Neighborhood Association





Greg Czaplewski  
Planning Department  
Lincoln/Lancaster County  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

25 July 2003

Dear Mr. Czaplewski;

The Antelope Park neighborhood has provided sufficient support to proceed with the residential change of zone application 3412, which the neighborhood association filed in May.

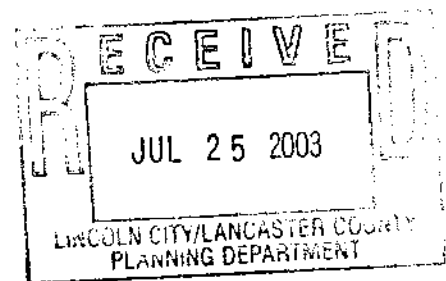
We canvassed in person, and by mail, the owners of 267 properties in the Antelope Park Neighborhood. 199 owners have responded, while 68 still have not. Of the 199 respondents: 190 have responded in support, 5 have responded that they didn't care, and 4 did not support the application. Of the respondents: 95% support the application, and the remaining 5% is divided between don't care and don't support. Of the total number of owners of property: 71% support the application.

The level of support that we have seen compares favorably with our earlier application, and is similar to the support shown in Franklin Heights, on the other side of 27<sup>th</sup> Street. A substantial majority of our neighbors have signified support, and responses from the absentee owners continue to come in.

I hope that this information can be useful in the preparation of your report to the commission. If there is anything else I can assist with, or if any additional information is needed, please let me know.

Sincerely,

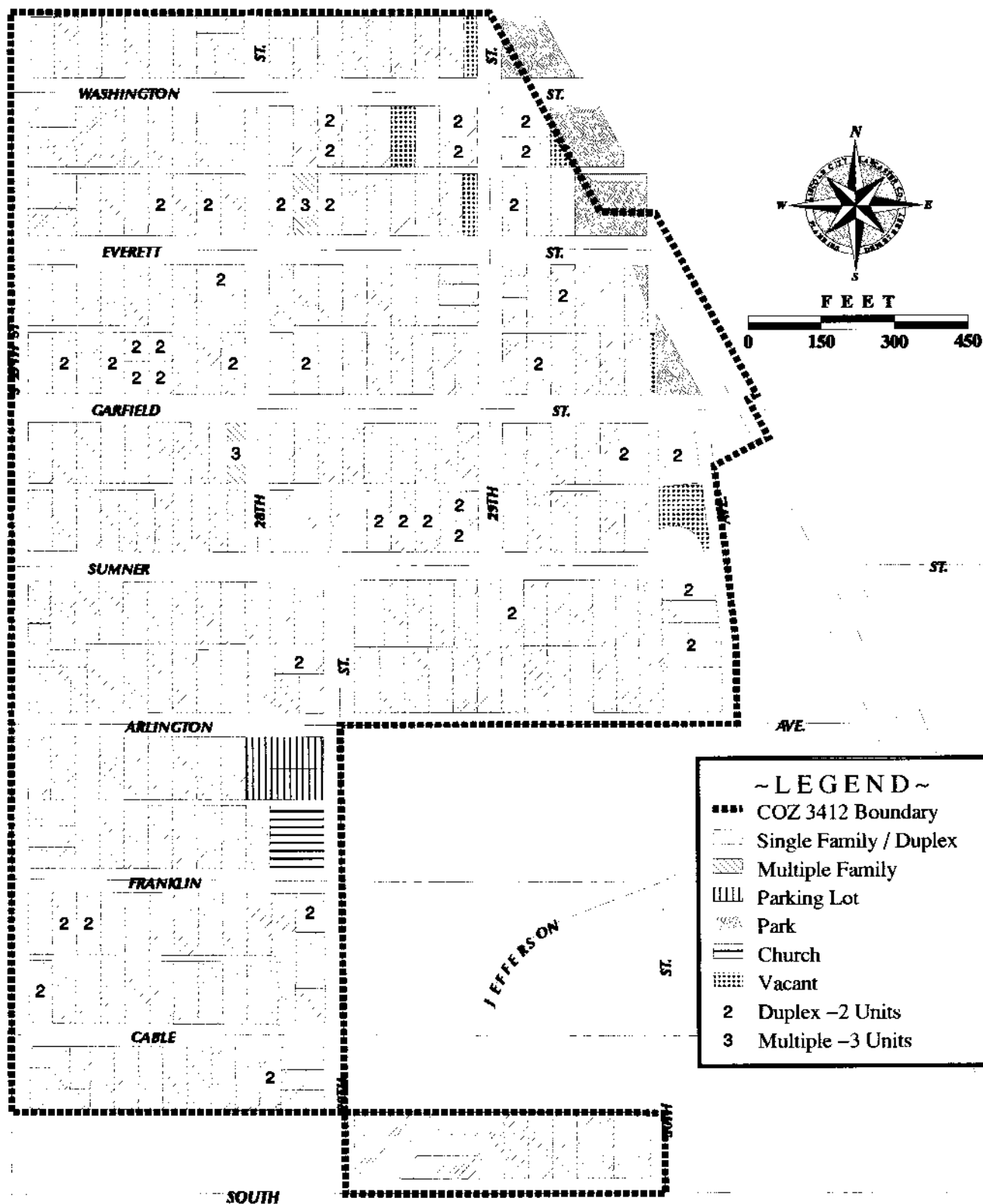
Gary Hejl  
Antelope Park Neighborhood Association





## COZ 3412: EXISTING LAND USE

## A ST





# COZ 3412: OWNERSHIP PARCEL SIZE

